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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,642	12/09/1999	RICHARD S. SCHWERTFEGER	AUS990817US1	9110
35617	7590	09/09/2004		
CONLEY ROSE, P.C. P.O. BOX 684908 AUSTIN, TX 78768			EXAMINER SALAD, ABDULLAHI ELMI	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/458,642

Applicant(s)

SCHWERDTFEGER ET AL.

Examiner

Salad E Abdullahi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-13 and 17-30 is/are allowed.
- 6) ☒ Claim(s) 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response

1. The response filed on 7/3/2004 has been received and made of record.
2. This application has been reviewed. Original claims 1-30 are pending. The rejection cited stated below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 15 recites the limitation "the JAVASCRIPT EVENT" in lines 5-8. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

3. Claims 1-13 and 17-30 are allowed.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

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ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

A question of patentability is raised with respect to claims 14-15, 17 and 9 of the instant application under the judicially created doctrine of "obviousness-type" double patenting with respect to claims 10, 13 and 1 of U.S. Patent No. 6,725,424.

5. Claims 14 and 15 of the instant application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10 of U.S. Patent No. 6,725,424. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference between claims 14 and 15 of the instant application and claim 10 of the patented claims is that is that "an output device" is recited in the claims 14 and 15 of the instant application instead of "assistive technology" as recited in claim 10 of the patented claims.

6. Claims 14 and 15 of the instant application is compared to claim 10 of the patented claims in the table below.

Instant Application 09/458-642	Patent No. 6,725,424
Claims 14 and 15: A client machine, comprising: an output device; and	Claim 10: A client machine, comprising: an assistive technology; and
----- a user agent coupled to the output device and adapted for coupling to a transcoder proxy, wherein the user	----- a user agent coupled to the assistive technology, and adapted for coupling to a transcoder proxy, wherein the user

<p>agent is configured to: receive an original script from the transcoder proxy, wherein the original script includes an element and an identifier assigned to the element; and</p> <hr/> <p>form a transcoded DOM in response to the original script, wherein the transcoded DOM is a representation of the portion of the electronic document;</p> <hr/> <p>use the transcoded DOM to produce output commands;</p> <hr/> <p>provide the output commands to the output device;</p> <hr/> <p>associate the JAVASCRIPT event with the element;</p> <hr/> <p>generate the JAVASCRIPT event in response to user input;</p> <hr/> <p>provide JAVASCRIPT event information and the identifier assigned to the element associated with the JAVASCRIPT event to the transcoder;</p> <hr/> <p>receive a modification script from the transcoder proxy;</p> <hr/> <p>modify the transcoded DOM in response to the modification script.</p>	<p>agent is configured to: receive an original script from the transcoder proxy, wherein the original script includes an element and an identifier assigned to the element;</p> <hr/> <p>form a transcoded DOM in response to the original script, wherein the transcoded DOM is a representation of the portion of the electronic document;</p> <hr/> <p>use the transcoded DOM to produce output commands;</p> <hr/> <p>provide the output commands to the assistive technology;</p> <hr/> <p>associate the assistive technology event with the element within the original script;</p> <hr/> <p>generate an assistive technology event in response to user input via the assistive technology;</p> <hr/> <p>provide assistive technology event information and the identifier assigned to the element associated with the assistive technology event to the transcoder proxy;</p> <hr/> <p>receive a modification script from the transcoder proxy;</p> <hr/> <p>modify the transcoded DOM in response to the modification script..</p>
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As shown in the above table the only difference between t claims 14 and 15 of the instant application and claim 14 of the patented claims is that **an output device** is added to claims 14 of the instant application instead of assistive technology as recited in claim 10 of the patented claims.

However, **an output device** as recited in claims 14 and 15 of the instant application is analogous to assistive technology as recited claim of the patented claims. Therefore, a person having ordinary skill in the art would have readily recognized the **an output device** as in claims 14 and 15 of the instant application is obviously assistive technology as recited in claim 10 of the patented claims.

As per claim 16 of the instant application see claim 11 of the patented claim

CONCLUSION

7. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abdullahi E. Salad** whose telephone number is (703) 308-8441. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, **Etienne, Ario** can be reached at (703) 308-7562. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should mailed to:

Box AF

Commissioner of Patents and Trademarks

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Washington, DC 20231

or faxed to:

(703) (872-9306).


Abdullahi salad

Examiner Art unit 2157

09/01/2004